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MyBusinessLoan.com, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MYBUSINESSLOAN.COM, LLC, a
California limited liability company,

Plaintiff,

v.

SKYMEDICUS Inc., an Indiana
Corporation, MARK REDER, an
individual, and AMY HOLCOMB, an
individual,

Defendants.

CASE NO.: '16CV2541 CAB JLB

COMPLAINT FOR:

- I. BREACH OF CONTRACT
(LOAN DOCUMENTS)**
- II. BREACH OF CONTRACT
(GUARANTY)**

Plaintiff, MYBUSINESSLOAN.COM, LLC (hereinafter referred to as
“Lender”), hereby submits this Complaint against SKYMEDICUS INC., an
Indiana corporation (hereinafter referred to as “Borrower”), Mark Reder, an
individual (hereinafter referred to as “Reder”), and Amy Holcomb, an individual
(hereinafter referred to as “Holcomb”) (Reder and Holcomb together are referred
to herein as “Guarantors”) (together, the Borrower and Guarantors are referred to
collectively herein as “Defendants”), and alleges as follows:

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NATURE OF THE ACTION

1. This is a civil action for breach of contract against the Borrower and Guarantors of a term loan agreement.

PARTIES

2. Lender is a limited liability company organized and existing only under the laws of the state of California.

3. Lender's only principal place of business is located at 1901 Camino Vida Roble, Suites 120, Carlsbad, California 92008.

4. Lender has one member, Dealstruck Holdings, Inc. ("Dealstruck Holdings").

5. Dealstruck Holdings is a corporation organized and existing only under the laws of the state of Delaware.

6. Dealstruck Holdings' only principal place of business is located at 1901 Camino Vida Roble, Suites 120, Carlsbad, California 92008.

7. Upon information and belief, Borrower is a corporation organized and existing only under the laws of Indiana and its only principal place of business is located at 2015 W Western Avenue, Suite 107, South Bend, Indiana 46619. Borrower is a citizen of Indiana.

8. Upon information and belief, Reder is Borrower's registered agent and Borrower's registered office address is 227 S Main Street, Elkhart, Indiana 46516.

9. Upon information and belief, Reder is, and at all relevant times was, domiciled in the state of Illinois and is therefore a citizen only of the state of Illinois.

10. Upon information and belief, Holcomb is domiciled in the state of Michigan and is therefore a citizen only of the state of Michigan.

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11. Upon information and belief, none of the Defendants are citizens of either the state of California or Delaware. Plaintiff is only a citizen, within the meaning of 28 U.S.C. § 1332, of California and its sole member is only a citizen, within the meaning of 28 U.S.C. § 1332, of Delaware. Accordingly, complete diversity jurisdiction exists between the Plaintiff, and its sole member, and each of the Defendants to this action.

JURISDICTION AND VENUE

12. Pursuant to 28 U.S. Code § 1332, this Court has original jurisdiction over the subject matter of this action because there is diversity of citizenship between the parties and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

13. The parties' contracts, identified herein and attached hereto, specifically provide that venue is proper in this Court and that Borrower and Guarantors have consented to the jurisdiction, including personal jurisdiction, of this Court.

GENERAL ALLEGATIONS

14. On or about September 18, 2015, Lender and Borrower entered into loan documents for a term loan including: (1) that certain Loan and Security Agreement attached as **Exhibit A** ("Loan and Security Agreement"); (2) that certain Note attached as **Exhibit B** ("Note"); (3) that certain Final Loan Request attached as **Exhibit C** ("Final Loan Request"); and (4) that certain Certified Copy of Resolutions attached as **Exhibit D** ("Resolutions"). Collectively, the Loan and Security Agreement, Note, Final Loan Request, and Resolutions shall be referred to herein as the "Loan Documents."

15. Pursuant to the Loan Documents, Borrower borrowed from Lender the principal sum of \$125,000.00. The full amount of this loan (the "Loan") and Borrower's indebtedness is evidenced by the Note.

1 16. The Final Loan Request sets forth the terms of the Loan. Specifically,
2 the Loan was for a term of “24 Months” with an interest rate of 14% per annum.
3 Borrower was obligated to make 24 monthly payments in the amount of \$6,001.61.
4 The Loan also had an origination fee of \$5,000.00.

5 17. Section 8 of the Loan and Security Agreement specifically provides
6 that if “Borrower shall fail to pay when due any amount of principal, interest or
7 other amount payable hereunder” such failure “shall constitute an ‘*Event of*
8 *Default.*’”

9 18. Section 9 of the Loan and Security Agreement provides that upon the
10 occurrence of an Event of Default, Lender may immediately accelerate and collect
11 on the entire outstanding balance of the Loan:

12 Lender may without notice or demand declare the entire unpaid
13 principal amount of the Loans, all interest accrued and unpaid
14 thereon and all other amounts payable hereunder to be forthwith
15 due and payable (*provided that*, upon the occurrence of any
16 Event of Default under **Section 8(e)** or **(f)**, such acceleration
17 shall be automatic), whereupon all unpaid principal of the
18 Loans, all such accrued interest and all such other amounts shall
19 become and be forthwith due and payable, without presentment,
20 demand, protest, notice of protest and non-payment, notice of
21 default, notice of acceleration or intention to accelerate, or
further notice of any kind, all of which are hereby expressly
waived by Borrower, and exercise any or all of Lender’s rights
and remedies under the Loan Documents, the UCC and other
applicable law.

22 19. Borrower has ceased making payments on the Loan and is in default
23 of the Loan Documents.

24 20. The total outstanding balance on the Loan owed to Lender is
25 \$85,293.11.

26 21. Sections 11 and 12 of the Loan and Security Agreement require
27 Borrower to indemnify and reimburse Lender for any and all attorneys’ fees and
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1 other expenses incurred in the enforcement of the Loan and Loan Documents upon
2 an Event of Default.

3 22. Further, Section 2(f) of the Loan and Security Agreement states that
4 “upon the occurrence and during the continuance of an Event of Default” the
5 interest rate of the loan “shall accrue at a rate equal to the Interest Rate plus 6.0%
6 *provided* that such default rate of interest, when combined with all fees that may be
7 characterized as interest, will not exceed the Maximum Rate [defined in the Loan
8 and Security Agreement as the maximum legal interest rate].” As Borrower is in
9 default, this higher default interest rate should be added to Borrower’s outstanding
10 indebtedness to Lender under the Loan Documents.

11 23. On or about September 18, 2015, Guarantors executed a Guaranty (the
12 “Guaranty”) “in order to induce Lender to extend credit to Borrower....” Through
13 which Guarantors “unconditionally and irrevocably guarantee[d] to Lender the full
14 and prompt payment when due [...] and performance of all indebtedness, liabilities
15 and other obligations of Borrower to Lender under or in connection with the Loan
16 and Security Agreement.” A copy of the Guaranty is attached as **Exhibit E**.

17 24. Pursuant to Section 13 of the Guaranty, “Guarantor[s] agree[d] to pay
18 on demand all reasonable costs and expenses of Lender and reasonable fees and
19 disbursements of counsel in connection with the enforcement, or preservation of
20 any rights under, this Guaranty.”

21 25. Through the parties’ agreements, Borrower and Guarantors expressly
22 consented to the jurisdiction, including personal jurisdiction, of the courts of the
23 state of California having situs within the County of San Diego for actions or
24 proceedings arising out of or relating to the Loan Documents and the Guaranty.

25 26. Lender has performed each and every one of its obligations under the
26 Loan Documents and Guaranty, and has attempted to collect the monies it is owed
27 from Borrower and Guarantors, who remain in default.

27. Guarantors, through section 18 of the Guaranty, and Borrower, through section 13(k) of the Loan and Security Agreement, expressly waived their rights to a trial by jury.

28. All conditions precedent to bringing this action have occurred or been waived.

29. Lender has retained counsel to represent it in this matter and is obligated to pay its counsel a reasonable fee for its services.

CLAIMS FOR RELIEF

COUNT I

BREACH OF CONTRACT - LOAN DOCUMENTS

(Against Borrower)

30. The allegations contained in paragraphs 1-29 above are hereby re-alleged and incorporated as if fully set forth herein.

31. Borrower and Lender entered into the Loan Documents pursuant to which Borrower was obligated to repay the Loan pursuant to the terms set forth in the Loan Documents.

32. Borrower has ceased making the required payments on the Loan and is in default of its obligations under the Loan Documents.

33. Having defaulted on the Loan, all amounts owed by Borrower to Lender are now immediately due and owing to Lender.

34. As a direct and proximate result of Borrower's breach of the Loan Documents, Lender has been damaged in an amount not currently known and according to proof, but at least \$85,293.11, together with interest at the agreed upon default rate.

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1 **WHEREFORE**, Plaintiff MYBUSINESS LOAN.COM, LLC respectfully
2 requests the Court:

- 3 A. Enter judgment against Borrower for damages including general,
4 special, consequential and compensatory damages in an amount of at
5 least \$85,293.11;
- 6 B. Award Lender interest, including pre-judgment interest, at the
7 maximum legal rate;
- 8 C. Award Lender the amount of its reasonable attorneys' fees and costs
9 and for costs of suit; and
- 10 D. Award Lender such other and further relief as the Court deems just
11 and proper.

12 **COUNT II**
13 **BREACH OF CONTRACT - GUARANTY**
14 (Against Guarantors)

15 35. The allegations contained in paragraphs 1-34 above are hereby re-
16 alleged and incorporated as if fully set forth herein.

17 36. The Guaranty requires Guarantors to make all payments under the
18 Loan Documents if Borrower fails to perform its obligations or defaults under the
19 Loan Documents.

20 37. Borrower is in breach of the Loan Documents thereby causing Lender
21 damage for which Guarantors are jointly and severally liable to Lender.

22 38. Borrower's indebtedness to Lender has not been satisfied by
23 Guarantors and, as a result, Guarantors are in breach of the Guaranty.

24 39. As a direct and proximate result of Guarantors' breaches of the
25 Guaranty, Lender has been damaged in an amount not currently known and
26 according to proof, but at least \$85,293.11, together with interest at the agreed
27 upon default rate.

WHEREFORE, Plaintiff, MYBUSINESS LOAN.COM, LLC respectfully requests the Court:

- A. Enter judgment against Guarantors for damages including general, special, consequential and compensatory damages in an amount of at least \$85,293.11;
- B. Award Lender interest, including pre-judgment interest, at the maximum legal rate;
- C. Award Lender the amount of its reasonable attorneys' fees and costs and for costs of suit; and
- D. Award Lender such other and further relief as the Court deems just and proper.

Dated: October 11, 2016

Respectfully submitted,

s/ Matthew J. Eandi
Attorney for Plaintiff
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